

Matrix: Guidance for Processing Acquired Water Rights into Trust Water for Instream Flows

(See footnotes for exceptions to the guidance contained in the table.)

	Purchase	Short Term Lease	Long Term Lease	Donation 90.42.080	Publicly funded Conserved Water (See Footnote 1)
Source of the Trust water	Permanent acquisition of all or part of a water right 90.42.080 (1)(a)	Short term Lease of five years or less of all or portion of a water right 90.42.080(1)(a)	Long term lease of over 5 years of all or portion of a water right 90.42.080(1)(a)	Water right holder donates all or portion of a water right to assist instream flow on permanent or temporary basis 90.42.080(1)(a)	Conveyance of all or portion of net water saving resulting from improvements financed by State or federal funds. Saved water is conveyed through water right transfer, lease contract or other binding agreement (RCW 90.42.030)--can be temporary (at least 10 years) if funded through CC Irrigation Efficiency Grant--90.42.030(1)
Application	Yes 90.03.380 applies-- Not exempt under 90.42.080(5)	Yes 90.03.380 applies-- Not exempt under 90.42.080(5)	Yes 90.03.380 applies--not exempt under 90.42.080(5)	NO application for donation under 90.42.080(1)(b). To get info for evaluation will use a "trust water right form"--90.42.080(5)	NO change application, and NO fees--90.42.040(7). Contract is required. To collect info will use "Trust water Right Form"
Notice--Public & agencies	Yes notice requirement in 90.03.380 applies. It must be done in accordance with 90.03.280	NO upfront notice for short term lease (exempt until exercised -- see Exercise of TW below (90.42.040(8))	Yes notice requirement in 90.03.380 applies. It must be done in accordance with 90.03.280	NO upfront notice for donation under 90.42.080 (1) (b). But required first time TW is exercised 90.42.040(5)	Yes notice is required under 90.42.040(5). This specific provision trumps general exemption from 90.03.380
Evaluation- extent and validity of WR--Is there a valid right? (See Footnote 2)	Yes, evaluation is required 90.03.380	Yes--evaluation is required 90.03.380	Yes--evaluation is required 90.03.380	Yes, evaluation is required to meet the requirements of 90.42.080(4)	Evaluation is discretionary--Evidence of a valid water right may be required under 90.42.030(2)
Quantification of TW	For partial purchase--annual consumptive quantity is average of 2 highest years of use within most recent 5 year period of continuous beneficial use per 90.03.380. For purchase of the total right--annual consumptive quantity is the highest use within the last 5-year of continuous use.	Annual consumptive use is highest use within last 5 years. Total leased plus remaining is not to exceed highest use per 90.42.080(8). For temporary acquisitions, the full quantity of water diverted or withdrawn is placed in the trust program, per 90.42.080(9)	Annual consumptive use is highest use within last 5 years. Total leased plus remaining is not to exceed highest use per 90.42.080(8). For temporary acquisitions, the full quantity of water diverted or withdrawn is placed in the trust program, per 90.42.080(9)	Annual consumptive use is highest use within last 5 year period. Donated amount plus remaining shall not exceed highest use--90.42.080(4). For temporary acquisitions, the full quantity of water diverted or withdrawn is placed in the trust program, per 90.42.080(9).	Net water saving is determined by the state and water right holder --90.42.030(3) and is done in accordance with the "Guidelines"--90.42.030(2), 90.42.020(2).
Upfront impairment analysis	Yes upfront analysis. Must be No impairment, or reduction of water delivered, or water supply (including return flows)--90.03.380	No upfront analysis for short term lease, until the first time TW is excercised--90.42.040(8) & 90.42.040(4)	Yes, upfront impairment analysis under 90.03.380	No upfront analysis for donation under 90.42.080 (1)(b)	Yes upfront analysis. Must be No impairment, or reduction of water delivered, or water supply (including return flows)--90.42.020(2). Special provisions apply to TW from and within irrigation district--90.42.030(5) and (6)
Decision Document	Report of exam or findings of Fact--	Findings of Fact or letter--90.42.040(2)	Finding of Facts--90.42.040(2)	Findings of Facts--90.42.040(2)	Contract or Findings of Fact--90.42.030
Final Document to the Trust Water Program and the water right holder	TW: WR certificate to the State is issued If partial purchase WR holder is issued a superseding certificate or certificate of change for claims 90.42.040(2)	Letter or Findings of Fact--for TW and water right holder--90.42.040(2)	Findings of Facts for TW and water right holder--90.42.040(2)	Permanent--certificate to the State for TW and Superseding certificate or certificate of change (for claims) to water right holder for remaining right. Temporary--Findings of Facts for both--90.42.040(2)	Permanent--Certificate to State for TW and Superceding certificate or certificate of change to WR holder Temporary--Contract or Findings of Fact--90.42.040(2)
Exercise of TW and protecting TW	Only if no impairment to existing water rights and public interest. --90.42.040(4), 90.03.380, & 90.42.070	Notice is required the first time a short-term lease is exercised. A water right holder may ask Ecology to review an impairment claim. Ecology's decision to alter or not alter the TW based on the impairment claim is appealable. 90.42.040(8), 90.42.080(8), 90.42.070	Only if no impairment to existing water rights and public interest. A water right holder may ask Ecology to review an impairment claim. Ecology's decision to alter or not alter the TW based on the impairment claim is appealable. 90.42.040(4), 90.42.080(8), 90.42.070	Notice is required the first time the donated TW right is exercised. A water right holder may ask Ecology to review an impairment claim. Ecology's decision to alter or not alter the TW based on the impairment claim is appealable. 90.42.040(8), 90.42.080(4), 90.42.070	Only if no impairment to existing water rights and public interest 90.42.020, 90.42.040(4), 90.42.070

FOOTNOTES:

Footnote 1: For acquisition of saved water from privately funded water conservation projects, apply the requirements for purchases, leases or donations, as appropriate.

Footnote 2: For acquisition of a portion of a water right (through purchase, lease or donation), where such acquisition will assist in achieving established instream flows, only the portion that will be acquired in trust is subject to an evaluation of validity of the right. The portion of the right that will remain with the water right holder is not subject to a validity review. The extent of the water right must be evaluated as needed to satisfy the requirements of 90.42.080(1)(b) (donations to instream flows), 90.42.080(8) (leases), or 90.03.380 (purchases), as applicable.